

STATE OF COLORADO

COLORADO DEPARTMENT OF HEALTH

Dedicated to protecting and improving the health and environment of the people of Colorado

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Roy Romer
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August 2, 1993

Mr Martin Hestmark
 U S. Environmental Protection Agency, Region VIII
 ATTN: Rocky Flats Project Manager, 8HWM-RI
 999 18th Street, Suite 500, 8WM-c
 Denver, Colorado 80202-2405

RE Request for Schedule Extension, Phase I Draft and Final RFI/RI Reports, Walnut Creek Drainage (OU-6), dated July 21, 1993

Dear Mr Hestmark,

The Colorado Department of Health, Hazardous Materials and Waste Management Division (the Division) acknowledges receipt of DOE's request for schedule extension for the subject reports. Our evaluation of DOE's rationales for the request are presented in the attached document.

We find that DOE's rationales are generally without merit or of questionable merit. The rationales generally do not constitute "good cause" as defined in Part 42, Paragraph 222 of the IAG. Some key findings are

- o EPA and the Division required a comprehensive Phase I work plan not 'additional work' as suggested by DOE. EPA was subsequently delayed in approving the workplan as a result of DOE's initial unwillingness to prepare a comprehensive plan
- o Procurement for work plan implementation was not on the IAG critical path schedule. Work was to commence immediately upon approval.
- o Preparation of the Health & Safety Plan, according to the workplan, was being completed by EG&G. It was never intended to be on the critical path
- o The additional, concurrent delays caused by floodplain regulations and endangered species surveys are questionable.
- o Under the IAG, budget reductions and agency reviews of technical memoranda do not constitute good cause

Nevertheless, the Division favors extending the schedule in relation to the "additional work" controversy that delayed the approval of the Phase I work plan. DOE's initial inexperience in interpreting the IAG's requirements for work plans is viewed as a mitigating factor that per IAG Part 42, Paragraph 222 (E) may constitute "good cause" by way of mutual agreement. Likewise, additional time should be granted in consequence of the laboratory turn around issue.

We do not support extensions regarding the procurement and Health & Safety Plan issues. Clearly, these two efforts were never intended to be on the critical path and could have been performed on time in support of work plan implementation. Further documentation would be necessary to support an extension based on the secondary issues of floodplains and endangered species.

In reviewing the proposed schedule, we believe the serial review of the Draft RFI/RI Report by DOE's Rocky Flats' and Headquarter's offices should be eliminated.

Concurrent review by DOE, EPA and CDH of the draft and associated activities would save four of the proposed eleven months

The Division proposes that EPA grant up to four months extension on the "additional work" issue and up to two months for additional laboratory time. If DOE trims four months of review time, only one month would separate the parties. The Division further proposes that EPA be prepared to assess stipulated penalties equivalent to one month for non-performance on the procurement and health & safety issues if more than ten months are actually needed to deliver the draft report on the proposed schedule. The Division, as the support regulatory agency, makes the foregoing recommendations but is open to a discussion of alternatives.

Lastly, the Division notes that per IAG Part 42, Paragraph 221 (D), DOE failed to specify in its extension request any impacts upon the remainder of the OU-6 schedule.

If you have any questions concerning the Division's comments, please call Harlen Ainscough or my staff at 692-3337.

Sincerely,



Gary W. Baughman, Chief
Facilities Section
Hazardous Waste Control Program

Attachment

cc: Daniel S. Miller, AGO
Jackie Berardini, CDH-OE
Arturo Duran, EPA